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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

FREDDY M. MOROCHO, WALTER
TACURE on behalf
of themselves and others
similarly situated,

Plaintiffs,

- against -

GEORGE C. KELLY, and NYACK
COLONIAL CAR WASH, INC.

Defendants.

INDEX NUMBER: 07 CIV. 2979

AFFIDAVIT OF KAREN L. ZDANIS

KAREN L. ZDANIS, of full age, being duly sworn upon her
oath, deposes and says:

1. I am an attorney licensed to practice law in the State
of New York and am counsel to Plaintiffs in the above action, and
as such am fully familiar with the facts stated herein.

2. Plaintiffs filed this action in or about April 13,
2007, and service was effectuated on or about April 23, 2007.

3. Subsequently, Plaintiffs consented to provide
Defendants an extension of time to Answer the Complaint, and
consequently Defendants have filed the subject motion for summary
judgment in lieu of serving an Answer.

4. Since an Answer was never filed, Plaintiffs have not
been able to conduct any discovery.

5. Plaintiffs are in need of discovery to determine: (a)

the names and contact information of class members that should be included in this action, (b) the amount of hours that Plaintiffs worked during their tenure at the Defendant Nyack Colonial Car Wash, Inc. ("Car Wash"), and (c) the amount of tips that Car Wash collected and improperly withheld from its employees.

6. Plaintiffs were paid in cash during their tenure as employees at the Nyack Colonial Car Wash, Inc., and as such do not have adequate personal records of their earnings, and require discovery to obtain payroll records which will indicate the hours worked, in addition to the salary Car Wash paid the Plaintiffs, and tips collected by Car Wash over the period of their employment. (See Affidavit of Freddy Morocho, ¶ 4).


7. Further, Plaintiffs do not have specific information as to the amount of tips the Car Wash collected on their behalf, and seek discovery of same from Car Wash.

8. In the event the Court does not dismiss Plaintiff's motion, Plaintiffs seek to obtain documents and answers to interrogatories, and take testimony of employees of Car Wash to disprove the Defendants' assertions regarding Plaintiff Walter Tacure and Plaintiff Morocho.

Dated: June 29, 2007


KAREN L. ZDANIS

Sworn and Subscribed to
before me this 29th day
of June, 2007.


NOTARY PUBLIC

STEWART G. EINWOHNER
Notary Public of the State of New York
No. 02E16107442
Qualified in Rockland County
My Commission Expires on March 29, 2008